



**DEPARTMENT OF THE ARMY**  
**HEADQUARTERS UNITED STATES ARMY FORCES COMMAND**  
**1777 HARDEE AVENUE SW**  
**FORT MCPHERSON GEORGIA 30330-1062**

REPLY TO  
ATTENTION OF

AFLG-PR

25 March 2002

**MEMORANDUM FOR ALL FORSCOM DOCS**

**SUBJECT: Contracting Information Letter (CIL) 02-21, Implementation Guidance for Army Federal Acquisition Regulation Supplement (AFARS) Changes for Subpart 5107.302 - Contractor Versus Government Performance and Subpart 5137.1 – Service Contracts - General**

**1. Implementation Guidance for Army Federal Acquisition Regulation Supplement (AFARS) Changes for Subpart 5107.302 - Contractor Versus Government Performance.**

a. Pursuant to the new AFARS dated 1 October 2001, several changes have been mandated for compliance in all service contracts. A specific area of concern for A-76 studies is the requirement to provide industry with at least nine months of historical data reflecting work years, by skill mix, currently being expended to perform the work.

b. Based on discussions between Beverly Thomas from the FORSCOM Office of the Principal Assistant Responsible for Contracting (OPARC), Brian Gerber and Bettye Chionuma from the FORSCOM Staff Judge Advocate Office, David Mayes from the FORSCOM Installation Management Support Division, Jim Andrews from the Army Audit Agency (AAA), and Steve Lake from the Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT)), the following implementation guidance is provided:

1) The language at Subpart 5107.302 provides, "... Historical data provided must be relevant, well organized, and cover at least nine months ... Such data should include work years, by skill mix, currently being expended to perform the work." The workload data and the Performance Work Statement (PWS) used by private industry and the in-house management team for preparation of proposals must be the same.

2) Solicitations issued on or before 4 October 2001 are not affected by this change. You are not required to amend those solicitations to incorporate this information. However, solicitations issued on or after 5 October 2001 must comply with the requirements of Subpart 5107.302. AAA has indicated they will provide certification if a reasonable and thorough approach has been used to provide adequate data within the solicitation (one option would be a copy of the TDA annotated with the positions that are currently performing the workload in the PWS) that affords offerors a fair basis for submission of proposals.

3) While the AFARS change does not identify any specific format for the data, the regulation does require that the data be pertinent and accurate to ensure that industry receives a

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full and complete understanding of the operation under A-76 competition. The information must provide at least nine months of historical data. The information does not have to be listed by grade, job series, or title nor is it required that a Table of Distributions and Allowances (TDA) be provided. The main emphasis is that, as a minimum, you must provide the skill mix and the work years. Skill mix for this purpose is a breakout by skill category and skill level, such as Senior Analyst I/II/III or Carpenter – Apprentice/Journeyman/Master.

c. In those rare cases where you are unable to comply with the guidance at AFARS 5107.302, relief may be sought IAW AFARS 5101.403 – Individual Deviations. The PARC has been delegated approval authority for individual deviations. For purposes of consistency, since a copy of all deviation requests must be provided to ASA(ALT), the Determinations and Findings (D&F) format that is provided at Defense Federal Acquisition Regulation Supplement (DFARS) 201.402(2)(i) through (ix) will be used when requesting an individual deviation. For your convenience, a sample D&F format is enclosed and should be tailored to the specific request. A cover memorandum, signed by the Garrison/Installation Commander, shall accompany the D&F when it is forwarded to the OPARC for approval.

2. Submission of One Time Individual Deviation Requests from Compliance with Army Federal Acquisition Regulation Supplement (AFARS) Changes for Subpart 5137.1 – Service Contracts – General.

a. Pursuant to the new AFARS dated 1 October 2001, and AFARS REVISION #002, dated 25 January 2002, all service contracts, except those for research and development, architect-engineer, environmental remediation and restoration, emergency services acquisitions, and procurements conducted pursuant to Office of Management and Budget (OMB) Circular A-76, must be performance based and fixed price.

b. Should other exceptions to AFARS 5137.1 be required, “deviations with supporting justification in writing may be granted by PARCs up to \$10 million, HCAs up to \$50 million, and the DASA(P&P) over \$50 million.”

c. For purposes of consistency, the Determinations and Findings (D&F) format that is provided at Defense Federal Acquisition Regulation Supplement (DFARS) 201.402(2)(i) through (ix) will be used when requesting a deviation. For your convenience, a sample D&F format is enclosed and should be tailored to the specific request. A cover memorandum, signed by the Garrison/Installation Commander, shall accompany the D&F when it forwarded to the OPARC for his or higher approval.

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d. Should there be any questions, please contact Gail Burrell at DSN 367-6787, email [burrellg@forscom.army.mil](mailto:burrellg@forscom.army.mil).

Encl  
as

A handwritten signature in black ink, appearing to read "Charles J. Guta", with a stylized flourish extending from the end.

CHARLES J. GUTA  
Colonel, AC  
Chief, Contracting Division, G4  
Principal Assistant Responsible  
for Contracting

## DETERMINATION AND FINDINGS

### FINDINGS

1. Requesting Activity: (Specific to installation)
2. Citation for which Deviation is Requested: Army Federal Acquisition Regulation Supplement (AFARS) 5137.1, Service Contracts-General OR AFARS 5107.302, Contractor Versus Government Performance. The citation requires that all solicitations for services must be performance based and fixed price OR that Historical data provided must be relevant, well organized, and cover at least nine months and that the data should include work years, by skill mix, currently being expended to perform the work. A one time individual deviation is requested for \_\_\_\_\_.
3. Description and Categorization of Deviation:
  - a. Description: \_\_\_\_\_ requests a waiver for a one time individual deviation from the new Army Federal Acquisition Supplement (AFARS) requirements at Subpart 5137.1 OR Subpart 5107.302. (include additional data to describe why you need this deviation; i.e., need additional resources, dollars to execute this change, etc.)
  - b. Categorization: The authorization for this individual deviation is found at FAR 1.403, DFARS 201.403, and AFARS 5101.403.
4. Effect and Impact of Deviation:
  - a. Effect: (state whether the deviation will have a significant effect beyond the internal operating procedures of the agency and give reasons to support the statement)
  - b. Impact: (state whether the deviation will have a significant cost or administrative impact on contractors or offerors, and give reasons to support the statement)
5. Period of Time for Which Deviation is Required: (period of the contract, including options):

ENCL

6. Previous Deviations for Same Purpose: (specific to your installation).

7. Publication of Requested Deviation in the Federal Register: The publication requirements of FAR 1.5 do not apply to this deviation and it has not been publicized in the Federal Register. (change if this does not apply )

8. Legal Review of Deviation Request: The requested deviation and this Determination and Findings were reviewed and concurred with by the Fort \_\_\_\_\_ legal counsel.

9. Detailed Rationale for Request: (state what problem or situation will be avoided, corrected, or improved if request is approved, be specific, and include "logical thought flow". )

a.

b. In order to comply with AFARS 5137.1 OR 5107.302,  
\_\_\_\_\_.

c.

10. Summary: \_\_\_\_\_.  
Failure to approve this individual deviation request would  
\_\_\_\_\_.

#### DETERMINATION

In accordance with AFARS 5101.403, DFARS 201.403, and FAR 1.403, I hereby grant a one-time individual deviation for the requirements found at AFARS 5137.1 (Service Contracts - General) OR AFARS 5107.302 (Contractor Versus Government Performance) for the \_\_\_\_\_.

This one time individual deviation will remain in effect through FY \_\_\_\_ (insert time period for contract including options).

(LEAVE BLANK -

Signature required will depend on  
dollar threshold and respective  
approval authority)